IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 5357 of 1994

RIICO
V/S
STATE & ORS

Mr. RAJAT DAVE for Mr. MS SINGHVI, for the appellant / petitioner

Mrs. RR KANWAR, AGA, for the respondent

Date of Order : 2.4.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

REPORTABLE

The present writ petition involves a dispute between the Rajasthan State Industrial Development and Investment Corporation Ltd., hereafter to be called as RIICO, and the State. RIICO itself is a state owned Corporation i.e. a public sector undertaking.

Hon'ble the Supreme Court in Oil & Natural Gas Commission Vs. Collector of Central Excise, reported in 1992 Supp (2) SCC-432 has observed, that it has been pointed out on more than one occasion, that public sector undertakings and the Government should not fight their litigation in Court, by spending money on fees of counsel,

court fees, procedural expenses and wasting public time. Courts are maintained for appropriate litigations. Court's time is not to be consumed by litigations which are carried on either side at public expenses from the source, and had directed the Cabinet Secretary to handle this matter personally, and report, as to why this litigation is being conducted when the two sides are public sector undertakings and the Union of India. Then, in Oil & Natural Gas Commission and Another Vs. Collector of Central Excise, reported in 1995 Supp (4) SCC-541, Hon'ble the Supreme directed the Government of India to set up a Committee, consisting of representatives from the Ministry of Industry, the Bureau of Public Enterprises, and the Ministry of Law, to monitor disputes between Ministry and Ministry of Government of India, Ministry and public sector undertakings of the Government of India, and public sector undertakings in between themselves, to ensure that no litigation comes to Court, or to a Tribunal, without the matter having been first examined by the Committee and its clearance for litigation: Then, in Chief Conservator of Forests, Government of A.P. Vs. The Collector, reported in 2003(2) DNJ (SC)-462, which was a matter arising from regular suit, it was held in para-14, that it is neither appropriate nor permissible for two departments of a State or the Union of India to fight litigation in a Court of law. Indeed, such a course cannot but be detrimental to the public interest as it also entails avoidable wastage of

public money and time. Various departments of the Government are its limbs and, therefore, they must act in coordination and not in confrontation. Filing of a writ petition by one department against the other by invoking the extraordinary jurisdiction of the High Court is not against the propriety and policy as it smacks of indiscipline. Then again the matter went to Hon'ble the Supreme Court in Punjab & Sind Bank Vs. Allahabad Bank, reported in JT 2006(4) SC-161, where the learned Single Judge had held, that there was no need to adopt procedure indicated by the Hon'ble the Supreme Court in Oil and Natural Gas Commission's case, which view as affirmed by the Division Bench, and the correctness of that view was challenged before Hon'ble the Supreme Court, and referring to the above three judgments and also a later judgment of Hon'ble the Supreme Court in Mahanagar Telephone Nigam Ltd. Vs. Chairman, Central Board, Direct Taxes reported in 2004 (6) SCC-431 and U.P.S.E.B. Vs. Sant Kabir Sahakari Katai Mills Ltd. reported in JT 2005(8) SC-339, and various other judgments, it was held in para-11, that the view expressed by the Division Bench of the High Court is confusing and patently shows that the ratio of the various decisions has not been understood in the proper perspective, and the order was set aside.

In my view, in view of the above settled legal position, the present is a matter which is required to be

sorted out by the high power committee.

Learned counsel for the State pointed out, that a Committee has already been constituted vide order no. 15 [ii]Raj/Vad/04 dt. 22.1.2004, comprising of the Chief Secretary, Principal Secretary, Finance, Law Secretary, the concerned Secretary of the Departments, between whom the dispute exists, and the Addl. Director (Litigation).

In that view of the matter, in view of the consistent judgments of Hon'ble the Supreme Court mentioned above, I think it appropriate to direct, and accordingly direct, that the matter be placed before the aforesaid Committee, who shall appropriately resolve the controversy, as it is really unfortunate that two limbs of the State fight between themselves in the Court, instead of better using time and energy to settle other disputes, and to save precious time of the Court.

The writ petition is accordingly disposed of with the aforesaid direction. The parties are directed to appear before the Committee on 7.5.2007, and the Committee shall expeditiously decide the matter.

(N P GUPTA),J.

/Sushil/